

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

RONALD C. FAGAN, M.D., P.C., et al.

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Plaintiffs

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Civil Case No. 23-cv-02095-TJS

v.

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U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES, et al.

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Defendants

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CONSENT MOTION FOR EXTENSION OF TIME

Plaintiffs, by and through, Richard Bruce Rosenthal, Attorney for Plaintiffs, hereby requests the Court extend its time to respond to Defendants' Motion to Dismiss (ECF No. 32) through and including May 6, 2024, and in support thereof states as follows:

1. Defendants filed a Motion to Dismiss the Complaint seeking redress under the Administrative Procedure Act and alleging due process violations concerning Provider Relief Fund payments Plaintiffs received pursuant to the Coronavirus, Aid, Relief and Economic Security Act ("CARES Act") and the United States Department of Health and Human Services' ("HHS") and the Health Resources and Services Administration ("HRSA")'s efforts to recoup those payments for Plaintiffs' failure to submit required reports.
2. Plaintiffs' opposition to the Motion to Dismiss was due January 26, 2024, The Court thereafter granted Plaintiff's two prior consent motions (ECF 33, 37 & 39) to extend Plaintiff's time to submit opposition until March 15, 2024 (ECF 34) May 6, 2024 (ECF 38) and thereafter to June 11, 2024 (ECF 30).

3. Plaintiff's counsel has recently been retained by two similarly situated Doctors and is in the midst of being retained by yet another, all three of whom will be seeking to be added as plaintiffs to the present litigation.
4. I have met and conferred with AUSA Rebecca Koch regarding adding the three doctors and the Plaintiffs' intention of amending the complaint. In addition we are in the midst of exchanging information regarding their circumstances in the hope of being able to resolve one or both of their claims without necessity for such an amendment (similar to what was negotiated regarding Central Valley Nephrology Medical Associates (ECF 30) and the Defendants have requested additional information regarding the provenance of Exhibit 5A of the complaint (IECF 1-8).
5. I have already provided Defendant's attorney with the information and documents regarding the proposed additional plaintiffs and, as a result of the inquiry made at Defendants' attorney's request, I have also provided her with an additional 27 documents that Plaintiffs intend to incorporate into the amended complaint.
6. Within 2 weeks after the last motion to extend counsel for the Plaintiffs, who was already suffering from covid related bronchitis, began having multiple transient episodic headaches (very similar to migraines but not affected by any of the migraine medications) as a result of which I became light and sound sensitive and my balance and ability to focus were affected. The long covid appears to have reawakened a cardiac issue I have twice been operated on because of, thus extending the time I was unable to work while my doctor adjusted my medication dosage.
7. As a result of the foregoing, in the past 5 weeks I have had between 16 and 20 working hours (most of which were spent arranging for extensions on pending cases and/or briefing two attorneys who have been assisting me (neither is admitted in the District) on what needed to be done to allow them to handle most of my pending case load while I was out.

8. I have only just returned to my office late last week and undersigned counsel requests one final 45 day extension of the time to respond to Defendants' Motion and move to amend and add plaintiffs.
9. As such, undersigned counsel requests an extension through and including July 29, 2024 to respond to Defendants' Motion.
10. Defendants, through counsel, provided their consent to this final extension of time requested herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order extending Plaintiffs' deadline to respond to Plaintiffs' Complaint up to and including June 11, 2024

Dated Huntington Station, NY
June 10, 2024

Respectfully Submitted,

/s/ Richard Bruce Rosenthal
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